

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

PROMOTE INNOVATION LLC,	§	
	§	
<i>Plaintiff,</i>	§	Civil Action No. 1:11-CV-39
	§	
v.	§	JUDGE RON CLARK
	§	
THE J.M. SMUCKER CO.,	§	
	§	
<i>Defendant.</i>	§	

ORDER OF DISMISSAL

Before the court is the parties' Stipulation of Dismissal with Prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) [Doc. # 17]. The court is of the opinion that Plaintiff's claims should be dismissed with prejudice.

IT IS THEREFORE ORDERED that Plaintiff Promote Innovation's claims, as set forth in its Amended Complaint, against Defendant The J.M. Smucker Co. are DISMISSED WITH PREJUDICE. Any and all claims that have been, or could have been, brought by Promote Innovation against J.M. Smucker regarding alleged false marking or advertising, or causing or contributing to false marking or advertising, under 35 U.S.C. § 292 of the products identified in the Amended Complaint are fully resolved. J.M. Smucker, and those acting in concert with J.M. Smucker, may, without further liability to Promote Innovation, sell inventory and exhaust materials, packaging, and labels that were manufactured on or before the date of this Order.

IT IS FURTHER ORDERED that attorney's fees and costs incurred in connection with this action shall be borne by the party incurring the same. The court retains jurisdiction over the

parties and the settlement agreement for purposes of resolving any dispute that may arise under it.

IT IS FURTHER ORDERED that all pending motions are DENIED AS MOOT.

So **ORDERED** and **SIGNED** this **26** day of **April, 2011**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge